

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

.....X  
IN RE:

ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER  
HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND  
VERSYS FEMORAL HEAD PRODUCTS LIABILITY  
LITIGATION

MDL No. 2859

18-MD-2859 (PAC)  
18-MC-2859 (PAC)

*This Document Relates to All Actions*

**ORDER NO. 38**  
**MEMORIALIZING**  
**APRIL 16, 2020**  
**STATUS**  
**CONFERENCE**

.....X

PAUL A. CROTTY, United States District Judge:

On April 16, 2020, the Court held a Status Conference by telephone to receive an update on the Parties' progress in MDL No. 2859.

**I. STATUS OF CURRENT FEDERAL AND STATE COURT ACTIONS**

To date, there are one-hundred ninety-nine (199) filed cases in this multidistrict litigation ("MDL"). There are thirteen (13) active cases pending in various state courts.

**II. MOTION PRACTICE AND DISPUTED PROTOCOLS**

The Court heard oral argument from each party on: (1) Plaintiffs' motion to compel regarding design and manufacturing changes to the MDL Products; and (2) whether the Parties' proposed Protocol Regarding the Testing, Exchange, and Storage of Implanted Medical Devices and Pathology Materials should govern non-bellwether plaintiffs. The Court will issue its rulings by separate order.

The Parties also noted that they had submitted a fully-agreed Deposition Protocol to the Court for its consideration.

Finally, the Court noted that the issue of use of pre-MDL depositions at bellwether trials had been previously argued by the Parties, the Parties stood on their prior arguments, and the Court noted that a ruling on that issue would be forthcoming.

### **III. THE IMPACT OF COVID-19 AND SCHEDULING OF DEPOSITIONS**

The Parties also discussed the impact of the COVID-19 pandemic on the schedule, including the scheduling of depositions. After the conference, Zimmer submitted a written proposal on the schedule (Dkt. 258), and the PEC filed its written response (Dkt. 259).

The Court will provide a ruling on these issues via a separate order.

### **IV. NEXT STATUS CONFERENCE**

The Court set a date of May 19, 2020 at 11:00 AM EDT for the next status conference, which will occur via telephone. No later than five (5) days prior to the Status Conference, counsel shall file a joint letter, not to exceed five (5) single-spaced pages and to be filed in **both 18-MD-2859 and 18-MC-2859**, setting forth the Parties' agenda.

SO ORDERED.

Dated: April 21, 2020  
New York, New York



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PAUL A. CROTTY  
United States District Judge